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International Human Rights Law

Volume 3

Professor Jennifer Orange

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International Human Rights Law Syllabus 2009-2010

Class 1

What are Human Rights?

- a. Sir Hersch Lauterpacht, *International Law and Human Rights* (New York: Praeger, 1950) 94-123..... 1:1
- b. Jack Donnelly, *Universal Human Rights in Theory and Practice* (New York: Cornell, 1989) 9-27 1:17
- c. Martti Koskeniemi, "Human Rights, Politics and Love," *Mennesker & Rettigheter* (*The Nordic Journal Of Human Rights*) 4/2001 pp. 33-45 (also reprinted in: *Finnish Yearbook of International Law*, Vol. 13 (2002) pp. 79-94..... 1:28
- d. Richard Rorty, "Human Rights, Rationality and Sentimentality" in S Shute and S Hurley, eds, *On Human Rights: The Oxford Amnesty Lectures 1993*, Basic Books, New York, 1993, pp. 111-134 1:37

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Historical Development

- a. Jerome J. Shestack, "The Philosophic Foundations of Human Rights", *Human Rights Quarterly* 20 (1998) 201-234..... 1:50
- b. Document: Universal Declaration of Human Rights 1:84
- c. Lynn Hunt, *Inventing Human Rights: A History* (New York: Norton, 2007) 113-145, 176-200 1:90
- d. Mark Mazower, "The Strange Triumph of Human Rights, 1933-1950" *The Historical Journal*, Vol. 47 (2004) pp. 379-398..... 1:121
- e. Charles Taylor, "Conditions of an Unforced Consensus on Human Rights", in Joanne A. Bauer and Daniel A. Bell, *The East Asian Challenge for Human Rights* (Cambridge: Cambridge University Press, 1999), p.124 1:131
- f. Makau Mutua, "The Limits of Rights Discourse" in *Human Rights: A Political and Cultural Critique* (University of Pennsylvania: Philadelphia, 2002) pp. 126-153 1:142
- g. Mary Ann Glendon, "Justice and Human Rights: Reflections on the Address of Pope Benedict to the UN", November 2008 19 *Eur. J. Int'l L.* 925 1:171

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Human Rights and the Interstate System

- a. Documents:
 - a. United Nations Charter, Arts 1; 2; 55-74 1:176
 - b. United Nations General Assembly, Resolution 60/251, establishing the Human Rights Council, 3 April 2006 1:190
- b. Christian Tomushcat, *Human Rights between Idealism and Realism* (Oxford University Press: Oxford, 2004), pp. 112-131 1:194
- c. Hurst Hannum, ed., *Guide to International Human Rights Practice* (Transnational Publishers: New Jersey, 2004 [4th edition], pp. 43-89 1:204
- d. Philip Alston, "Reconceiving the UN Human Rights Regime: Challenges Confronting the New Human Rights Council," Center for Human Rights and Global Justice Working Paper, Number 4, 2006 1:227
- e. Jack Donnelly, *Universal Human Rights in Theory and Practice* (New York: Cornell, 1989) 28-45 1:267

Class 4

Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR)

- **The Nature of Obligations**
 - a. ICCPR 1:277
 - b. Manfred Nowak. *CCPR Commentary* (NP Engel: Kehl am Rhein, 2005) pp. 27-30, 34-46, 57-72 1:284
- **Extraterritoriality**
 - a. ICCPR, Art. 2(1)
 - b. Marc Bossuyt, *Guide to the Travaux Préparatoires" of the International Covenant on Civil and Political Rights* (Martinus Nijhoff: Dordrecht, 1987) pp. 52-56 1:303
 - c. Nowak, *CCPR Commentary*, pp. 43-45 (re-read)
 - d. Declassified U.S. government documents (6 pages) 1:309
 - e. Human Rights Committee: *Lopez Burgos v. Uruguay* (1981) and *Concluding Observations on the Report of the State of Israel* (2003) 1:315
 - f. ICJ, *Legal Consequences of the Construction of a Wall in Occupied Palestinian Territory* (2004), paras. 102-113 1:329
- **The Human Rights Committee**
 - a. ICCPR, Arts 28-41; Optional Protocol I 1:338
 - b. Henry Steiner, Philip Alston and Ryan Goodman, *International Human Rights: Law, Politics, Morals* (forthcoming, 2007) extract 1:342

- **Human Rights Committee: General Comments**
 - a. Philip Alston, “The Historical Origins of the Concept of ‘General Comments’ in Human Rights Law” in L. Boissons de Chazournes and V. Gowland Debbas, eds, *The International Legal System in Quest of Equity and Universality: Liber Americorum Georges Abi-Saab* (2001), extracted in Steiner, Alston and Goodman, forthcoming 2007 1:350
 - b. Human Rights Committee: General Comment 31 1:356

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Derogations in Times of Public Emergency (Article 4)

- a. Human Rights Committee, General Comment 29 2:1
- b. Human Rights Committee, *Jorge Landinelli Silva et al v. Uruguay*, Communication No. 34/1978 (8 April 1981), U.N. Doc CCPR/C/OP/1 at 65 (1984)..... 2:9

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- a. Human Rights Committee, *General Comment 6* 2:13
- b. *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, 1990, Adopted by the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders..... 2:15
- c. Human Rights Committee, *Pedro Pablo Camargo v. Colombia [Guerrero v. Colombia]* Communication No. 45/1979, U.N. Doc CCPR/C/OP/1 at 112 (1985) 2:19
- d. Human Rights Committee, *Ms. Yekaterina Pavlovna Lantsova v. The Russian Federation*, Communication No. 763/1997, U.N. Doc. CCPR/C/74/D/763/1997 (2002)..... 2:31

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The Prohibition on Torture and Inhumane Treatment (Article 7)

- a. Human Rights Committee, *General Comment 20* 2:35
- b. Nowak, *CCPR Commentary*, pp. 161-168, 172-185 2:38
- c. Steiner, Alston and Goodman, *International Human Rights in Context: Law, Politics, Morals: text and materials*, 3rd ed. (Oxford: Oxford University Press, 2008), pp. 225-262..... 2:50
- d. Thomas L. Friedman, “A Tortuous Compromise”, New York Times, April 29, 2009..... 2:70
- e. Human Rights Committee, *Boucherf v. Algeria*, Communication No. 1196/2003, CCPR/c/86/D/1196/2003 (2006) 2:71
- f. Human Rights Committee, *Alzery v. Sweden*, Communication No. 1416/2005, UN Doc. CCPR/C/88/D/1416/2005 (2006)..... 2:84

Class 7

Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights (ICESCR)

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- a. Karl Polanyi, *The Great Transformation: The Political and Economic Origins of Our Time* (Beacon Press: Boston, 1941), pp. 171-186, 257-268..... 2:125
- b. Stephen Holmes and Cass Sunstein, *The Cost of Rights* (Norton: New York, 1999) pp. 35-48, 221-232..... 2:142
- c. Issa Shivji, "Constructing a New Rights Regime: Promises, Problems and Prospects," (1999) 8 *Social and Legal Studies*, 253-276..... 2:158

Human Rights and Economic and Social Rights

- a. Universal Declaration of Human Rights, art. 22-27 (see Week 2)
- b. Matthew Craven, *The International Covenant on Economic, Social and Cultural Rights: A Perspective on its Development* (Clarendon: Oxford, 1995) pp. 16-29 2:182
- c. ICESCR..... 2:190

The Nature of the Obligations and the Committee

- a. ICESCR, Art. 2, Arts. 16-17
- b. Craven, pp. 37-50 (creation of the Committee), 87-92..... 2:194
- c. Craven, pp. 109-116 (obligation to respect, protect, fulfill) 2:206
- d. Committee on Economic, Social and Cultural Rights, *General Comment No. 3* (1990), Nature of States' Parties Obligations 2:211

Class 8

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- a. ICESCR, Art. 12
- b. General Comment No. 14 2:215
- c. "Health" in Susan Marks and Andrew Plapham, *International Human Rights Lexicon* (Oxford University Press: Oxford, 2006) pp. 197-208 2:233
- d. *Soobramoney v. Minister of Health, Kwa-Zulu Natal*, Constitutional Court of South Africa, CCT 8/02 (5 July 2002)..... 2:241
- e. Marius Pieterse, "Eating Socioeconomic Rights: The Usefulness of Rights Talk in Alleviating Social Hardship Revisited," (2007) 29 *Human Rights Quarterly*, 796-822 2:275

The Right to Food

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- c. "Food" in Marks and Clapham, pp. 163-178 2:297
- d. Jean Drèze, "Democracy and the Right to Food" in Alston and Robinson, eds., pp. 45-64 2:307
- e. Interim Order, Supreme Court of India, *PUCL v. Union of India* (May 2003) 2:319

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The Right to Water

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- b. World Water Council, "The Right to Water: From concept to implementation", 2006, pp. 1-16 3:19
- c. Friends of the Right to Water, "Key Principles for an International Treaty on the Right to Water", Draft, April 2005 3:77
- d. "What Price for the Priceless?: Implementing the Justiciability of the Right to Water", edited by The Harvard Law Review Association, (2007) 120 *Harvard Law Review* 1067 3:87
- e. "Canada Foils UN Water Plan", Toronto Star, April 2, 2008 3:109
- f. "Water is a Human Right", Blue Planet Project, www.blueplanetproject.net/RightToWater/human_right.html 3:112
- g. "Tie Canada's bid for Security Council seat to water issue, Barlow urges", CBC News, March 17, 2009, www.cbc.ca 3:113

Class 10

Cultural Relativism: theoretical underpinnings

- a. Michael J. Perry, "Are Human Rights Universal? The Relativist Challenge and Related Matters", (1997) 19 *Human Rights Quarterly* 461 3:115
- b. Celestine Nyamu-Musembi, "Towards and Actor-oriented perspective on Human Rights", Institute for Development Studies Working Paper 169, October 2002 3:164
- c. Gad Barzilai, "Beyond Relativism: Where is Political Power in Legal Pluralism?", (2008) 9 *Theoretical Inquiries L.* 395 3:193
- d. Amartya Sen, "Human Rights and Asian Values," The New Republic, July 14-21, 1997 3:210

Class 11

Cultural Relativism and Women's Rights

- a. Mahnaz Afkhami, "Identity and Culture: Women as Subjects and Agents of Cultural Change" in *From Basic Needs to Basic Rights: Women's Claim to Human Rights* (Washington: Women, Law and Development International, 1995) pp. 217-232 3:221
- b. Radhika Coomaraswamy, "Identity Within: Cultural Relativism, Minority Rights and the Empowerment of Women", (2002) 34 *Wash. Int'l L. Rev* 483 3:229
- c. Rachelle Cassman, "Fighting to Make the Cut: Female Genital Cutting Studied Within the Context of Cultural Relativism", (Fall 2007) 6 *Nw. Univ. J. Int'l Hum. Rts.* 128 3:245
- d. Erika George, "Virginity Testing and South Africa's HIV/AIDS Crisis: Beyond Rights Universalism and Cultural Relativism, Toward Health Capabilities", (2008) 96 *Cal. L. Rev.* 1447 3:272

Class 12

The role of Non-state actors

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- b. David Stoll, "To Whom Should We Listen? Human Rights Activism in Two Guatemalan Land Disputes," in Richard Wilson, ed., *Human Rights, Culture and Context: Anthropological Perspectives* (Pluto Press: London, 1997) pp. 187-215 3:348
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- d. Daniel C. Esty, "Linkages and Governance: NGOs at the World Trade Organization" Fall 1998 University of Pennsylvania Journal of International Economics 19 at 709 3:378
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- f. Jean Pictet, "The Fundamental Principles of the Red Cross: commentary", January 1, 1979, www.icrc.org 3:393